

### REMARKS

Claims 22-24 remain in the case.

The Examiner has objected to the oath/declaration. A Substitute Declaration is filed with this Amendment in response.

The Examiner has rejected claims 22-24 under 35 U.S.C. §102(a) as being anticipated by Barbut (US 5,662,671).

#### The Cited Art

The patent to Barbut discloses an atherectomy catheter system including a flexible elongate member 50 and a filtration assembly 69 at the distal region 51 of member 50. The filtration system includes a mesh 75 and an expansion means typically in the form of an inflation seal 70. In a contracted condition, inflation seal 70 and mesh 75 can be inserted through the femoral artery and up through the aorta into a region of interest and thereafter expanded by injecting a fluid into inflation seal 70 so to achieve contact with the inner lumen of the aorta. The system also includes an atherectomy assembly 80 having a cutting blade 81, or other means to remove plaque from the aorta or the femoral artery, and suction means 82. (9/7-33) "In certain embodiments as discussed above, filtration is an important feature of the atherectomy catheter. To filter blood effectively, i.e., to capture embolic material, without unduly disrupting blood flow, the mesh must have the appropriate physical characteristics... ." (9/50-55) (emphasis supplied)

#### The Cited Art Distinguished

Claim 22 has been amended to emphasize the vessel-occluding aspect of the expandable and contractible element. Support for the amendment to claim 22 can be found in paragraph 80. In contrast, the Barbut patent does not disclose a vessel occluding device. In particular, contrary to the Examiner's position, filtration assembly 69 is not a vessel occluding element. Rather, as discussed above, element 69 is a filter for capturing material without unduly disrupting blood flow. It does not occlude a vessel. Seal 70 does not correspond to the membrane of claim 22 but rather acts as an expansion member to permit mesh 75 to be placed in expanded and contracted

conditions. Seal 70 does not create a vessel occluding element in which the braided element becomes substantially impermeable. Accordingly, claim 22 is not anticipated by Barbut.

Claim 22 would not have been obvious over Barbut because it would have been contrary to the express teachings of Barbut to modify the structure of Barbut to occlude the vessel. As mentioned above, filtration while not unduly disrupting the blood flow is an important feature of the invention.

Accordingly, claim 22 is allowable over the cited art.

The dependent claims are directed to specific novel subfeatures of the invention and are allowable for that reason as well as by depending from novel parent claims.

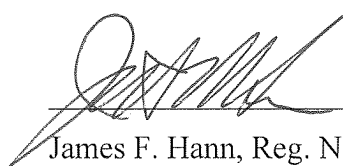
### CONCLUSION

It is respectfully submitted that this application is now in condition for allowance, and such action is requested. If the Examiner believes a telephone conference would aid the prosecution of this case in any way, please call the undersigned at (650) 712-0340.

The Commissioner is hereby authorized to charge any fee determined to be due in connection with this communication, or credit any overpayment, to our Deposit Account No. 50-0869 (GTEC 1001-4).

Respectfully submitted,

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